

IN THE STATE COURT OF DEKALB COUNTY

STATE OF GEORGIA

TONY WARBINGTON and
CLARA WARBINGTON.

Plaintiffs,

vs.

CIVIL ACTION
FILE NO. _____

WAL-MART STORES, INC.,

SECOND ORIGINAL

Defendant.

STATE COURT OF
DEKALB COUNTY, GA

2011 MAY 11 PM 2:09

FILED

COMPLAINT

COME NOW, **TONY WARBINGTON** and **CLARA WARBINGTON**, Plaintiffs in the above-styled civil action, and file this Complaint showing this Honorable Court as follows:

I.

JURISDICTION AND VENUE

1.

Plaintiffs are residents of Chamblee, DeKalb County, Georgia.

2.

Wal-Mart Stores, Inc. ("Wal-Mart") is a Delaware corporation doing business in the State of Georgia at various locations, including, but not limited to the store located at 4725 Ashford-Dunwoody Road, Atlanta, Georgia 30338. This Defendant may be served by delivering a copy of the Summons and Complaint to Corporation Process Company located at 2180 Satellite Boulevard, Suite 400, Duluth, Gwinnett County, Georgia 30097. Once served, this Defendant shall be subject to the jurisdiction of this Court.

3.

Once served, venue shall be proper as to this Defendant.



II.

FACTS

4.

On or about March 27, 2010, Plaintiffs entered the Wal-Mart store located at 4725 Ashford-Dunwoody Road, Atlanta, Georgia 30338 for the purpose of shopping.

5.

After shopping for approximately 45 minutes, Plaintiff Tony Warbington was walking down an aisle when he slipped and fell on a wet area on the floor.

6.

At no time were there any "wet floor" signs or other indicators in place to alert Plaintiff(s) to the wet surface.

7.

While falling, Plaintiff Tony Warbington grabbed a shopping cart and a shelf to prevent himself from falling completely to the floor. Despite this effort, however, Plaintiff Tony Warbington suffered injury.

8.

A Wal-Mart employee arrived on the scene soon thereafter and prepared an incident report.

9.

Upon leaving the Wal-Mart store, Plaintiff was taken to the emergency room at Northside Hospital.

III.

COUNT I - NEGLIGENCE

10.

Plaintiffs reallege and incorporate by reference Paragraphs 1 through 9 as if fully set forth herein.

11.

At all relevant times, while Plaintiff Tony Warbington was located in Wal-Mart, he exercised ordinary care for his own safety.

12.

At all relevant times, Defendant Wal-Mart, its agents, servants, and/or employees had actual knowledge and/or constructive knowledge of the wet floor prior to Plaintiff Tony Warbington's fall.

13.

At all relevant times, Defendant has a duty to keep its premises safe and in good condition.

14.

At all relevant times, Defendant and its agents, servants, and/or employees were negligent in that they failed to warn Plaintiff Tony Warbington of the hazardous condition that existed on its premises.

15.

At all relevant times, despite actual knowledge and/or constructive knowledge, Defendant failed to make its premises safe.

16.

Any and all injuries to Plaintiff were proximately caused by the negligence of Defendant and its agents, servants, and/or employees.

17.

As a direct and proximate cause of Defendant's negligence, Plaintiff Tony Warbington received severe injuries to his body and mind. Plaintiff has suffered and continues to suffer both physical and mental pain and suffering.

18.

As a direct and proximate cause of Defendant's negligence, Plaintiffs have incurred medical expenses to date, and will continue to incur medical expenses in the future.

19.

As a direct and proximate cause of Defendant's negligence, Plaintiff has presently incurred medical bills in excess of \$50,000.

20.

As a direct and proximate cause of Defendant's negligence, Plaintiff Tony Warbington has not been able to work and has incurred lost wages and will continue to incur lost wages and loss of earning capacity into the future.

COUNT II – LOST OF CONSORTIUM

21.

Plaintiffs reallege and incorporate by reference Paragraphs 1 through 20 as if fully set forth herein.

22.

At all relevant times, Plaintiff Clara Warbington was the lawful spouse of Plaintiff Tony Warbington.

23.

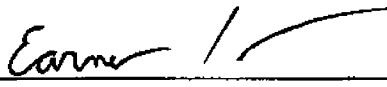
As a proximate result of the above-described personal injury suffered by Plaintiff Tony Warbington, Plaintiff Clara Warbington sustained a loss of consortium of her spouse including, but not limited to, his unimpaired aid, assistance, affection, comfort, society, companionship, company, love and other conjugal fellowship and will likely continue to sustain such loss in the future.

WHEREFORE, Plaintiffs pray this Court grant judgment against Defendant as follows:

- (a) For compensatory damages;
- (b) For physical pain and mental anguish in the past and in the future;
- (c) For physical impairment in the past and in the future;
- (d) For medical expenses in the past and in the future;
- (e) For loss of past wages, future wages and loss of future earning capacity;
- (f) For loss of consortium;
- (g) For attorney's fees and costs of litigation;
- (h) For a jury trial; and
- (i) Plaintiffs be granted such other and future relief at this Court deems appropriate.

Respectfully submitted this 11th day of May, 2011.

THE LAW OFFICES OF EARNEST REDWINE, JR., LLC

By: 
Earnest Redwine, Jr.
Georgia Bar No. 597610

730 Peachtree St., Suite 560
Atlanta, Georgia 30308
Telephone: (404) 870-0010

Attorney for Plaintiff

33115

Civil Action No. 11A36839-4

Date Filed _____

Magistrate Court ☐
 Superior Court ☐
 State Court ☐
 Georgia, GWINNETT COUNTY

Tony Worthington, Clerk Worthington

Attorney's Address

Earnest R. Worthington, Jr.
Law Offices of Earnest R. Worthington, Jr., LLC
733 Peachtree St. S.W., Suite 500
Atlanta, GA 30308

Name and Address of party to be Served

Wal-Mart Stores, Inc. c/o
Corporation Process Company
2180, S. Peachtree Blvd., Suite 400
Atlanta GA 30347

Plaintiff

VS.

Wal-Mart Stores, Inc.

Defendant

Garnishee

SHERIFF'S ENTRY OF SERVICE

PERSONAL ☐

I have this day served the defendant _____ personally with a copy of the within action and summons.

NOTORIOUS ☐

I have this day served the defendant _____ by leaving a copy of the action and summons at his most notorious place of abode in this County.

Delivered same into hands of _____ described as follows
 age, about _____ years; weight, about _____ pounds, height, about _____ feet and _____ inches, domiciled at the residence of defendant.

CORPORATION ☒

Served the defendant Walmart Stores Inc a corporation
 by leaving a copy of the within action and summons with Linda Banks (Rt-1)
 in charge of the office and place of doing business of said Corporation in this County

TACK & MAIL ☐

I have this day served the above styled affidavit and summons on the defendant(s) by posting a copy of the same to the door of the premises designated in said affidavit, and on the same day of such posting by depositing a true copy of same in the United States Mail, First Class in an envelope properly addressed to the defendant(s) at the address shown in said summons, with adequate postage affixed thereon containing notice to the defendant(s) to answer said summons at the place stated in the summons.

NON EST ☐

Diligent search made and defendant _____ not to be found in the jurisdiction of this Court.

This 16 day of May, 20 11

9:10 PM

SHERIFF DOCKET _____ PAGE _____

DEPUTY

GWINNETT COUNTY, GEORGIA

White: Clerk

CANARY: Plaintiff Attorney

PINK: Defendant

No. 11A36839-4STATE COURT OF DEKALB COUNTY
GEORGIA, DEKALB COUNTY

Date Summons Issued and Filed

PERSONAL INJURY SUMMONS

Deputy Clerk

Deposit Paid \$

1 ANSWER

1 JURY

SECOND ORIG.
SECOND ORIG.Tony Warbington, Clara WarbingtonC/o Ernest Redwine, Jr., Law Offices of Ernest Redwine, Jr., LLC

(Plaintiff's name and address)

730 Peachtree St., Suite 566Atlanta, GA 30308

vs.

Wal-Mart Stores, Inc.Corporation Process Company2180 ~~Satellite~~ Satellite Blvd., Suite 400, Duluth, GA 30097

(Defendant's name and address)

TO THE ABOVE-NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of State Court, Suite 230, 2nd Floor, Administrative Tower, DeKalb County Courthouse, 556 N. McDonough Street, Decatur, Georgia 30030 and serve upon the plaintiff's attorney, to wit:

JURYErnest Redwine, Jr., Law Offices of Ernest Redwine, Jr.730 Peachtree St., Suite 566, Atlanta, GA 30308Atlanta, (4) 970-0016

(Phone Number)

597610

(Georgia Bar No.)

ANSWER to the complaint which is herewith served upon you, within thirty (30) days after service upon you, exclusive of the day service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. (Plus cost of service action.)

Defendant's Attorney

Third-Party Attorney

Address

Address

Phone No.

Georgia Bar No.

Phone No.

Georgia Bar No.

TYPE OF SUIT

Account
Contract
Tort
Other

☒ Personal Injury
☐ Medical Malpractice
☐ Legal Malpractice
☐ Product Liability
☐ Other

Principal

\$

Interest

\$

Att'y Fees

\$

Transferred From

(Attach BLUE to Original and WHITE to Service Copy of complaint)

Summons-1000USREV